

UNITED STATES DISTRICT COURT
FOR THE WESTERN DIVISION

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SAMANTHA D. RAJAPAKSE,

PLAINTIFF

v.

Civil:

BAKER , DONELSON, BEARMAN, BERKOWITZ, AND CALDWELL
DAVID BEARMAN, Shareholder and COUNSEL FOR MEMPHIS LIGHT GAS AND WATER
CITY OF MEMPHIS
CITY OF MEMPHIS LAW DIVISION
HERMAN MORRIS Appointed CITY ATTORNEY FOR CITY OF MEMPHIS
COUNSEL ROBERT RATTON ET AL

DEFENDANT(S)

***COMPLAINT AGAINST DAVID BEARMAN OFFICER OF THE COURT AND INDIVIDUAL, FIRM
BAKER, DONELSON, BEARMAN, BERKOWITZ, AND CALDWELL FOR VIOLATION OF STATE
AND FEDERAL STATUE, OBSTRUCTION OF JUSTICE, AND INTERFERENCE IN AN PENDING
LITIGATION OF ETHICS OF AN ANTI TRUST COMPLAINT AND DEPRAIVATION OF RIGHTS
SUIT***

Plaintiff, Samantha D. Rajapakse, pro se bring to action a complaint against Defendant, David Bearman, active shareholder of the Law Firm Baker, Donelson, Bearman, Berkowitz, and Caldwell located at 165 Madison Ave. Shelby County, Memphis, Tennessee, Defendant firm in whole and in part, Baker, Donelson, Bearman, Berkowitz, and Caldwell it officers, shareholders, and partners as well as it insurance, Defendant Robert Ratton, active counsel for the City of Memphis Law Division under the Appointment of Herman Morris. Defendant Ratton is located at 125 N. Main, Street, Shelby County, Memphis, Tennessee.

JURISDISTION OF THE COURT

Defendant Robert Ratton, III be sued under Civil Rights Act of 1983, violation of Plaintiff's 14th Amendment Rights of Due and Tennessee Tort Act and Tennessee Government Tort Act in committing a wrongful act during pending litigation resulting in damages and injuries to Plaintiff in this cause. TCA 39-16-501 (A) (1) (b) Interfering with government operation being a public servant using his official capacity to take advantage of the actual or purported capacity and TCA 39-16-402 Official Misconduct and under Tennessee Board of Professional Responsibility Code 8

Defendant, David Bearman be sued under Civil Rights Act of 1983, violation of Plaintiff's 14th Amendment Rights as well as TCA 39-16-401 (1) (2) (A) (1) of Tennessee Misconduct of Justice, TCA 39-16-402 (A) (1) and unethical conduct under the Tennessee Board of Professional Responsibility Code 8

Defendants, Baker Donelson Berman Berkowitz and Caldwell be sued under Civil Rights Act of 1983 and violation of Plaintiff 14th Amendment rights and for unethical conduct under the Tennessee Board of Professional Responsibility Code 8.

Defendants David Bearman and Baker Donelson violated TCA 39-16-403 (A) (2) of Official Oppression by intentionally denying or impedes Plaintiff in exercise the enjoyment of any rights, privileges with full knowledge a public servant conducts or actions is unlawful.

The City of Memphis and its Legal Division through its Appointee, Herman Morris be sued under Civil Rights Act of 1983 in violation of Plaintiff's 14th Amendment rights of due process and for unethical conduct under the Tennessee Board of Professional Responsibility Code 8.

Defendants mentioned in this complaint has violated the Sherman and Clayton Anti Trust by using unethical tactics in swaying the court to prevail in their favor by retailing against Plaintiff committing fraud, deceptive practices, causing harm, intimidation, deprivation of enjoyment of life, humiliation, and threatening her using their client services.

CASES CITED IN 6TH CIRCUIT COURT ON THE ACTION OF THE DEFENDANTS IN THEIR CAPACITY

Plaintiff is submitting causes used by Western District Court Judges and Magistrates related to this complaint.

Stating a claim: Regarding pleadings standard of a complaint need only put a party on notice of the claim being asserted against it to satisfy the federal requirement of stating a claim upon which relief can be granted – Memphis Tennessee Area local Am Postal Workers Union AFL-CIO v. City of Memphis 02-5694 2004 WL 103000 at 6th Circuit Jan. 2004.

Official Capacities: Individual sued in their official capacities stand in the shoes of the entity they represent - Kentucky v. Graham 473, US 159, 165 (1985) citing Monell v. Dept of Soc. Services 436, US 65, 658, 690 N 55 1978.

Alleging 1983: Plaintiff must demonstrate a “direct casual link” between official action and the deprivation of rights such that the deliberate conduct of the government body in the moving force behind the alleged constitutional violation – Waters v. City of Morristown 242 F 3d 353, 361-62 6th Cir 2001.

Immunity: Plaintiff must allege facts showing the Defendant encouraged the specific incident of misconduct in some way directly participated in it or a minimum show at least implicitly authorized, approved, or knowingly acquiesced in the Constitutional conduct of the offending officer – Boyles v. Correctional Medical Serv. 478 Fed Appx 971-974 6th Cir Mich.

“Cause of action is entirely personal to the direct victim of the alleged constitutional tort- Claybrook v. Birchwell, 199 F 3d 350 (6th Cir 2000).

Violation of due process: Lebel v. Everglades Marina, Les 115 NJ 317, 588 A 2d 1252, 1256 (1989) that minimum contact is needed to satisfy due process.

Defendant, Bearman, Ratton the City of Memphis and its Law Division and the Law Firm of Baker Donelson Bearman Berkowitz and Caldwell has violated Plaintiff under the Americans with Disabilities with their actions in this pending litigation by assisting, promoting, encouraging, and implementing retaliation against her for filing a claim against their Client, Memphis Light Gas and Water, City of Memphis and its officials and acting agents.

As a result of the Defendants action in being excessive in protecting the interest of their client and using their official capacity with their client and as an Officer of the Court, they have intentionally with malice deprived Plaintiff

right has caused, emotional duress, pain and suffering, humiliation, lost of enjoyment of life including the right to enjoyment of her property.

**PLAINTIFF SEEKING IMMEDIATE ESTOPPEL/INJUNCTIVE RELIEF FROM DEFENDANT'S AND
AGAINST THIS COMPLAINT**

Plaintiff seeks protections of her 14th amendment rights process during the screening of this complaint and the continue screening of the pending complaint. Irreparable harm and damage will be inflicted on Plaintiff as a double damages because of the actions under the advisement of the Counsel in the pending case and this complaint being filed. The 6th Circuit cited in Memphis Light Gas and Water v. Willie Craft "electricity is a essential to modern day living. To have someone services disconnected for non payment is harmful both in safety and health . But to have someone to have their services disconnected for error is far worst. While Plaintiff is seeking an Injunctive relief in the pending case, MLGW Counsel, Defendant David Bearman and its firm have found loop holes in directly harming Plaintiff while at the same time waiting for the pending report to be filed by the Magistrate.

PARTIES RELATED TO THIS COMPLAINT

1. Plaintiff, Samantha D. Rajapakse also know as Samantha Delane Reed-Rajapakse is a residence of the city of Memphis Shelby County, Tennessee. She currently has a pending litigation against Memphis Light Gas and Water, presiding President Jerry Collins, Mayor A. C Wharton, City of Memphis and Memphis Light Gas and Water Bankruptcy Counsel, Stephanie Cole. (Rajapakse v. Memphis Light gas and Water, et al 2: 12-2807-JDT-dv).

2. Defendant, David Bearman is currently lead counsel for Memphis Light Gas and Water and City of Memphis of Rajapakse v. MLGW, etal 2: 12-2807 and active Shareholder of Baker Donelson, Beaman, Berkowitz and Caldwell

3. Defendant, Baker, Donelson, Bearman, Berkowitz, and Caldwell was hired as counsel by Memphis Light Gas and Water and the City of Memphis to represent them in the matter of Rajapakse v. MLGW.

4. Defendant, Robert Ratton is counsel for City of Memphis Law Division located at 125 N. Main , Shelby County, Memphis, Tennessee and is Counsel of Appearance in the matter of Rajapakse v. MLGW.

5. City of Memphis Law Division is under the appointment of Herman Morris and is part of the City of Memphis

6. Memphis Light Gas and Water is a Municipal Corporation doing business under the City of Memphis and is a party of Rajapakse v. MLGW.

COMPLAINT

Plaintiff, Samantha Rajapakse has a pending case before Western District Federal court for Tennessee Division dated September, 2012. During the course of litigation, Memphis Light Gas and Water hired Defendant, David Bearman as Counsel in representing their party. Since the pending litigation, Plaintiff has informed Defendant Bearman of his clients action in seeking relief during pending litigation which to no prevail. Memphis Light Gas and Water has deprived Plaintiff of her rights to her home and threatening her by using the Power account include harass, intimidate, and threaten her out of her home and forcing her to file bankruptcy in keeping the District Court from properly hearing the pending litigation.

The complaint of Rajapakse v. MLGW in part cites city of Memphis and MLGW admitted Plaintiff's account was in error and forced her into filing bankruptcy in trying to force her to pay. The complaint continues by stating with the knowledge of the error, Jerry Collins, with the knowledge of the Memphis City Council, ordered the services of the Plaintiff's home disconnected for the error part of the bill. With the error billing they violated State laws and deprived her from being in her home for 31 days. During the 31 days Counsel Bearman was and is an active mediator between Plaintiff and his client, MLGW and the City of Memphis. At the present time, the court is in review in submitting a report of findings from Magistrate Judge Vescovo. Plaintiff last motion filed before the court outlined Counsel Bearman's behavior in seeking an Injunctive Order from the court.

Plaintiff currently has (2) two pending Summary Judgment against MLGW and City of Memphis and all parties involved.

Plaintiff asserts Defendant Bearman has assisted other counsel (Stephanie Cole) and Defendant Robert Ratton in orchestrating an unethical legal tactic to either force Plaintiff in filing bankruptcy so the matter will be issued a permanent Stay in Western District Court or Plaintiff will be forced to pay the error amount to keep her services on causing the court to review the matte of their counter claim as valid.

Plaintiff asserts she has made full knowledge of her being diagnose with Type 2 Diabetes causing her emotional and physical harm to their actions.

Defendant Bearman and Defendant Ratton has used unethical tactics in trying to force Plaintiff in serving them a pending complaint while it was been pre screened in District Court for Determination of the case in which Defendant Bearman claimed he knew little or nothing regarding the actions of his client. In some cases Defendant Bearman has justified his clients wrong doing.

Defendant Bearman filed a counter-suit on behalf of his client, MLGW in the amount of 2, 592.12 and with full knowledge knew MLGW had placed the same amount on Plaintiff's bill claiming it was for one months of services from February to March, 2013 in seeking validation of payment and forcing her to pay on the error amount. When Plaintiff contacted Defendant Bearman regarding the amount, he informed he that despite the fact it was an issue before the court, MLGW had the right to place the same disputed amount before the court because it was due to her filing bankruptcy.

Defendant Bearman and Ratton was advised by Magistrate Vescovo to contact Plaintiff regarding her account to come to some resolution after she addressed the court on Memphis Light Gas and Water using the account and the disputed billing to harass, intimidate, and threaten her and she repeatedly informed Defendant Bearman who acted like he did not have any knowledge of his client action or was coercing them to act upon her. Neither Defendant Bearman or Ratton has contacted Plaintiff in resolving the issue.

Defendant Ratton has withheld documentation and evidence which is part of the public record under the Electronic Freedom Information Act Amendment of 1996, Tennessee Public Records Act TCA 10-7-301

Plaintiff has a pending Motion before the court in seeking the Department of Justice in review of this matter on the behavior of Defendant Bearman and Ratton for USC of Obstruction of Justice in an Anti Trust/ Pending litigation in Rajapakse v. MLGW et al.

Plaintiff has sent repeated emails to Defendant Bearman regarding the harassment and intimidation of his client which has gone ignored or little resolution in the matter.

Defendant Bearman is aware his counter claim will be denied due to the admission of MLGW Manager Clint Richardson admission of errors before Plaintiff and in front of Memphis City Council Members and therefore, has instructed his clients to place the amount on the bill so they may receive payment.

Plaintiff asserts emails sent to Defendant Bearman from October, 2012 to May, 2013 shows a widespread pattern abuse including violation of Plaintiff rights during a pending litigation.

Plaintiff asserts the Magistrate dismissed many of their arguments as “ moot” against the plaintiff and therefore, their only major defense has caused them to take desperate action against Plaintiff rather than let the courts do its screening.

BRIEF ARUGMENT OF COMPLAINT

Defendant, Counsel David Bearman has been acting on behalf of Memphis Light Gas and Water, lead Counsel for City of Memphis and its officials sued in their official and private capacity (Wharton, Collins, and Cole). Defendant Bearman has also informed in house counsel of Memphis Light Gas and Water in the event of Counsel Cole being sued, he would represent her as well. (Plaintiff has forward email from Counsel Bearman). Emails from Plaintiff to Defendant and from Defendant’s reply shows a pattern of informing of his client’s behavior from October, 2012 when she was forced out of her home by MLGW by the orders of Mr. Collins. Because of his position as Lead Counsel, he has allowed and even assisted he is the main driving force in advising his client and other counsel to violate the court and Plaintiff by not allowing due process of the courts.

Although Plaintiff is pro se, she clearly understand the line between counsel fighting aggressively in protecting and preserving a client interest and violation of the court procedures by using the process to continue to cause harm and damage to the other party. Under the Tennessee Code of Conduct under rule 8 states that Attorneys are officers of the courts, they are the voice of their client, officer of the legal system and they are to promote justice and public good. The ethical conduct integrity dedicated to justice. An Attorney is a member of the legal profession and is also a public citizen having special responsibility for the quality of justice. Defendant Bearman being lead counsel along with his firm as acted as an advisor to the City of Memphis and each party being sued in the pending lawsuit. The records provided in ***Rajapakse v. MLGW*** clearly shows while the Defendant is representing his client (MLGW) the harassment continue and become stronger during the continue prescreening which includes hearings with the United States Magistrate conference and waiting on the upcoming report from the court in the pending case. The harassment has become so intense, it is as if this case is not pending in the courts and they have little or no regards as to what is said in the courts, the procedures, or the pending outcome. If the Attorney assist or stand by with full knowledge of this client continue wrong doing against another party is just as guilty as the original person committing the wrong doing.

RELIEF SOUGHT AGAINST DEFENDANTS

1. 300,000 per incident (three hundred thousand dollars) from Defendant, Robert Ratton, III for the events mention in this complaint against Plaintiff for damages, deprivation, and emotional duress.
2. 3 million for emotional duress, physical duress, damages, and deprivation of Plaintiff's rights from the City of Memphis and its Law Division.
3. 2.5 million dollars from Defendant David Bearman in his official, business, and individual capacity for emotional duress, physical duress, damages, and deprivation of Plaintiff's rights of his actions.
4. 9 million dollars from Baker Donelson Bearman Berkowitz and Caldwell in whole and in part of its official business causing emotional and physical duress, deprivation of Plaintiff's rights.
5. All relief including sanctions, Injunctive relief, and other relief the court may see.

Respectfully Submitted,



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